
(2019) 08 CAL CK 0105
In the Calcutta High Court
Case No : Writ Petitions (WP) No. 23112 (W) Of 2018

Bimal Barman

APPELLANT

Vs

Central Bank Of India & Ors

RESPONDENT

Date of Decision : 02-08-2019

Acts Referred:

Citation : (2019) 08 CAL CK 0105

Hon'ble Judges : Amrita Sinha, J

Bench : Single Bench

Advocate : Dilip Kumar Samant, Biswanath Jha

Final Decision : Dismissed

Judgement

Amrita Sinha, J

The petitioner was appointed on 9th February, 2013 as Safai Karmachari cum Sub-staff in the branch office of the Central Bank of India. A memo was issued to the petitioner on 11th March, 2016 wherein it was mentioned that during Bank's internal investigation it was reported that the school leaving certificate (transfer certificate) which was submitted by the petitioner at the time of getting appointment in the Bank appears to be not genuine. The petitioner was advised to submit his written explanation within seven days why disciplinary action should not be taken against him for his misconduct.

Being dissatisfied with the reply given by the petitioner a disciplinary proceeding was initiated against him. By an order dated 12th April, 2017 the disciplinary authority imposed penalty of dismissal without notice.

The petitioner challenged the said order of dismissal by filing a writ petition before this Court being WP 23509 (W) of 2017 which was disposed of on 16th February, 2018 whereby the Court was pleased to set aside and quash the steps taken by the respondents and the order of punishment including show cause notice, with liberty to the respondents, to proceed against the petitioner afresh,

from the stage of submission of the enquiry report, after complying with the principles of natural justice.

Being aggrieved by the order of the learned Trial Judge the petitioner preferred an appeal which was considered and disposed of by the Hon'ble Appeal Court by an order 31st August, 2018 whereby the Hon'ble Appeal Court modified the order of the learned Trial Judge to the extent that the respondent authority shall conclude the disciplinary proceeding which has been initiated against the appellant in compliance of the order passed by the learned Single Judge within a period of six weeks from the date of communication of a copy of this order, and on failure to conclude the disciplinary proceeding within the stipulated time frame, the disciplinary proceeding initiated against the petitioner shall be deemed to have been dropped automatically.

The order of the Hon'ble Appeal Court was an ex parte one.

The order of the Hon'ble Appeal Court was communicated to the respondent Bank by the learned advocate of the petitioner by a letter dated 12th September, 2018. The letters to all the respondents were sent through speed post. The letter was addressed to i) the Chairman and Managing Director of the Bank having office at Mumbai, ii) the General Manager, Human Resource Department of the Bank having office at Mumbai, iii) the Regional Manager, iv) Branch Manager, v) Chief Manager/Disciplinary Authority and vi) the Senior Regional Manager of the Bank at Cooch Behar.

From the postal receipts annexed to the writ petition, showing proof of service of the said letters it appears that, all the letters were posted from the same post office on 15th September, 2018. From the track report of the postal articles it appears that the letters addressed to the Mumbai office of the Bank reached on 18th September 2018 but the same did not reach the Cooch Behar office of the Bank before 28th September, 2018.

Immediately upon receipt of the order of the Hon'ble Division Bench the disciplinary authority proceeded with the departmental proceedings and passed final order of dismissal on 7th November, 2018.

The petitioner is aggrieved by the said order and submits that as the said order has been passed by the respondent Bank after the time frame fixed by the Hon'ble Division Bench accordingly the said order is liable to be set aside.

The sole ground that was urged before the Court challenging the order of termination is that the disciplinary authority ought to have concluded the disciplinary proceeding within a period of six weeks from 18th September 2018 i.e. the date when the bank office at Mumbai received said order. The order of the disciplinary authority is liable to be set aside as the same had been passed beyond the time frame fixed by the Hon'ble Division Bench. No other ground has been urged by the petitioner to challenge the order of dismissal.

The respondent bank have opposed the prayer of the petitioner by filing affidavit

in opposition wherein it has been categorically stated that the letter of the learned advocate communicating the order of the Hon'ble Division Bench along with the server copy of the order was received by the Bank office at Cooch Behar on 28th September, 2018.

After receiving the said order, the Bank, with the view to comply the same, proceeded with the departmental proceeding and completed it within the time frame fixed by the Hon'ble Court. According to the respondents six weeks' time which was granted by the Court was supposed to expire on 9th November 2018. The Bank passed final order on 7th November, 2018, i.e. within the time as specified by the Hon'ble Division Bench.

The learned advocate appearing for the petitioner submits that the Bank office at Mumbai received the said letter on 18th September, 2018 and accordingly the six weeks' time period ought to be calculated from 18th September, 2018 and not from 28th September, 2018. The petitioner contended that it was the duty and responsibility of the head office at Mumbai to immediately communicate and intimate their branch office at Cooch Behar about the order of the Hon'ble Court.

The learned advocate appearing for the respondent bank submits that the cause of action arose in the branch office of the Bank at Cooch Behar. The disciplinary authority is located at Cooch Behar. The time frame is liable to be calculated from the date on which the disciplinary authority received the order of the Court and not from the date the head office received the same.

I have heard the submissions made on behalf of both the parties.

The order of the Hon'ble Division Bench dated 31st August, 2018 specifically mentioned that 'the respondent authority shall conclude the disciplinary proceeding, which has been initiated against the petitioner in compliance of the order passed by the learned Single Judge, within a period of six weeks from the date of communication of the order'. The same implies that the authority which initiated the disciplinary proceeding shall complete the same within the specified period of six weeks. The authority which initiated the disciplinary proceeding against the petitioner is located at Cooch Behar. Accordingly the reckonable date from which the order is to be implemented will be the date on which the Cooch Behar office received the order and not from the date on which the Managing Director of the bank located at Mumbai received the said order of the Hon'ble Court.

It appears that immediately on receipt of the order of the Hon'ble Court by the disciplinary authority steps have been taken to conclude the disciplinary proceeding, which ultimately stood concluded on 7th November, 2018 i.e. within the time as specified by the Hon'ble Court. Accordingly the same does not call for any interference on the ground of delay.

As the petitioner has not urged any other point to challenge the impugned order no other point is left to be decided in the instant matter.

WP No. 23112 (W) of 2018 stands dismissed.

Urgent photostat certified copy of this order be given to the petitioner, if applied for upon compliance of usual formalities.